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MESSAGE
— OF —
GOVERNOR BUTLER
BEFORE THE
THIRD LEGISLATIVE ASSEMBLY.

Held at the Capitol in Omaha, May, 1867.

BY AUTHORITY.

ST. A D BALCOMBE, STATE PRINTER.

1867.

MESSAGE
— OF —
DAVID BUTLER,
GOVERNOR OF THE STATE OF NEBRASKA.

Third Session, held at the Capitol in Omaha, May, 1867.

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GOVERNOR'S MESSAGE.

Gentlemen of the Senate
and House of Representatives:

For the second time have you been called together by proclamation for specific purposes, during the short period that has elapsed since your term commenced by the provisions of the Constitution. But you are not this time a body of doubtful powers and precarious existence, dependent upon a future contingency for a definition of your status, and a recognition of your acts. On the 1st day of March last, six days subsequent to your late adjournment, the President of the United States, by proclamation, consummated the admission of a new State, and by breathing life into the Constitution submitted by the Territorial Legislature, and ratified by the popular vote, conferred upon you the legislative authority of a sovereign people.

The framers of the Constitution evidently did not expect so long a lapse of time between the date of its ratification by the people, and its acceptance by the formal admission of Nebraska into the Union by act of Congress, would ensue, as to preclude an early regular session of the State Legislature. In consequence of this delay, it became the imperative duty of the Executive to convene you for a special session.

As the provisions of the Constitution make it necessary

that the subjects of legislation to be considered during such a session, shall be stated in the Governor's proclamation, and repeated in his message to both houses when assembled, and as the exigences of the State require that this session shall, as far as practicable, take the place of a regular session, I have endeavored to cover, in my proclamation, all the ground necessary to enable you to set the machinery of State in motion, and to render the change of a Territorial to a State government as free from inconvenience as may be.

It is needless for me to enlarge upon the duties that the peculiar situation of the State requires of you. As, at the time of your selection by the people it was well understood that upon you would devolve these grave responsibilities, I doubt not that you will prove equal to the task, and will justify the confidence that has been reposed in your wisdom and patriotism.

I trust that no clashing of local interests, no pertinacity of adherence to minor details and unimportant measures, may be allowed to obstruct or delay the transaction of the large amount of business urgently required to ensure the unembarrassed working of the State government, and the prosperity of your constituents.

No State has ever entered the Union under more favorable auspices than our own. Practically free from debt, our credit is sound, and our resources entirely available for present and future needs. Our facilities for communication with the East and South have been greatly increased during the past year, and the Rocky Mountains and the shores of the Pacific are rapidly drawing near to us, as the construction train of the "Union Pacific" makes its daily progress westward.

The tide of immigration, that at the close of the rebellion commenced to pour over our borders, has experienced no abatement, but has continued, with accelerated speed, to people our fertile prairies with hardy pioneers, and to contribute the necessary labor and capital for the development of our latent wealth.

The ample reports of the condition of our finances and the general prosperity of our people, contained in the late mes-

sage of Acting Governor Paddock to the Territorial Legislature, renders it unnecessary for me to enter into any details at present, and I shall confine myself, therefore, to the statement of such subjects of legislation as you are specially called upon to consider. In their enumeration I shall follow the order in which they appear in my proclamation, rather than attempt to indicate their relative importance by any rule of precedence.

1. *The revision or amendment of the Election Law, the provision of penalties for the violation thereof, and the enactment of a law for the registration of voters.*

That a change is needed in the election law, seems manifest from the number of contested cases that have annually come up for decision in the Territorial Legislature. Serious charges are being continually urged against the validity of the election of parties holding the proper certificates. The law regulating contests being necessarily somewhat complex, and productive of expense, it is found burdensome to comply with its details, and hence must arise abuses of the popular franchise. It would seem the part of wisdom to provide such safeguards at the ballot-box itself, as would obviate the necessity of a frequent resort to the tedious course, prescribed in the law regulating contests. A law requiring the ballots to be numbered, was formerly in force, and doubtless served as a check upon illegal voting. But the Legislature, deciding perhaps, that its violation of the secrecy of the ballot more than counterbalanced its advantage as a wholesome restraint upon fraud, at a late session saw fit to repeal it. But the most effectual safeguard has, in my opinion, been found in the system requiring all electors to be registered. Especially is this called for in cities and large towns, where the polls are thronged with men, personally unknown to the judges, and no adequate means can, under the present system, be used to test the legality of many of the ballots offered.

I therefore respectfully recommend the Legislature to provide for the election or appointment of Registers of Election in each county and incorporated city in the State, whose duty it shall be to keep books wherein the names of all the qualified

voters shall be duly enrolled, clothing them with the necessary authority to enforce such rules and regulations as may be prescribed for their direction, and to provide that all citizens of the State whose names have been thus enrolled prior to certain specified times, and none others, shall be legally entitled to the franchise.

2. The revision or amendment of the statute relating to Prosecuting Attorneys.

In accordance with the present law, each county elects, at the same time with other county officers, a Prosecuting Attorney, whose compensation, within certain limits, is fixed by the court, and allowed by the commissioners. In no instance is the compensation sufficient to make the office a remunerative one to a lawyer of experience and ability. Nor are the duties of this office sufficient to employ but a small portion of the time of the incumbent. In order to obviate these difficulties, the propriety of amending the law is worthy of your consideration. By abolishing the office of County Prosecuting Attorney, and creating that of District Prosecutor, we should have but three such officers in the State, who would be fully occupied by their duties, and fully remunerated for their time and services, without at all increasing the expenses of the several counties. This would doubtless secure the services of competent officers, and tend to the material increase of county school funds, and render the conviction and punishment of criminals an occurrence less rare than at present.

3. The revision or amendment of the general incorporation law.

As the Constitution prohibits the passage of special acts, conferring corporate powers, the interests of the State imperatively demand a thorough and extensive general law under which corporations may be formed. The subject therefore requires your earnest consideration, and it is to be hoped that you will exercise your best judgment, in framing such a law as will fully meet the exigencies of the case, that there may be no impediment left in the way of commercial enterprise, and of pushing on to completion such internal improvements as are required for the prosperity of our people, at the same time carefully guarding against monopolies and other abuses.

4. *The revision or amendment of the statute regulating interest.*

There seems to be a growing feeling of antagonism to the long cherished idea of regulating by law the price or hire of money. It is held by many business men, as well as by the majority, perhaps, of political economists, that like all other commodities that make up the subject matter of commercial transactions, money should bring whatever its value is rated at in the market. That the law of "demand and supply" should govern the rate of interest, as well as the price of labor and merchandize, and that all attempts to legislate in a matter already regulated by natural laws are necessarily futile. From time immemorial usury laws have been successfully evaded by the ingenuity of business men, and the question naturally arises as to their expediency. Without expressing any opinion upon the matter, I simply mention it as a subject of legislation that it may be open to your consideration.

5. *The revision or amendment of the Revenue Law.*

A bill, making some judicious changes in this law, was passed just before the adjournment of the late Territorial Legislature, but through a formal error, failed to obtain the signature of the Executive. Believing that the objects it was intended to accomplish, were for the public good I submit the subject for your action. Your attention is also called to the fact that, by recent decisions, the power of States to tax the shares of National Banks, has been established, and it would be proper to amend the law so as to include this species of property in the the tax lists.

6. *The amendment of section thirty-eight, chapter forty-three, Revised Statutes, regulating the appointment of commissioners of deeds.*

A clause of this section confines the number of commissioners of deed in any city or county of the United States to one. It seems apparent that this clause found its way into the revision through an inadvertency. A law similar in its provisions had been formerly in force, but previously to the revision had been amended, and in consequence of such amendment, appointments had been made in many places, and commissions

issued to several persons in the same city or county, who are still in possession of such commissions, and transacting business under them. In other respects the law as it now stands is a hardship, for but a single commissioner for this State in many of the large cities would seem entirely inadequate to answer the objects for which commissioners are appointed. And there can hardly be any objection to an increase of the number, for facilitating business, and ministering to the convenience of residents of these localities. I recommend, therefore, that the clause "not exceeding one in any one city or county" be stricken out.

7. The revision or amendment of the School Law.

It is of vital importance to our State, now that the general endowment of lands, set apart for school purposes, comes under our control, that a liberal and enlightened school system be inaugurated as soon as practicable. For the attainment of this we have many advantages not possessed at the outset by the older States. The system of Free Schools is no longer an experiment with the American people. Its development has been gradual, but continual, since its early adoption upon the Atlantic shores, and now it is the chief glory of the Republic. Perfected as it has been by experience and study, it will not be difficult to cull from the legislation of other States the best material with which to construct a broad and ample code suited to the peculiarities of our country and population. Your most earnest attention is therefore invoked, that no pains may be spared to render Nebraska second to no other State in the facilities offered to all her children, irrespective of sex or condition, to acquire, not only the rudiments of education, but to erect upon a broad foundation, a superstructure of solid attainments in art, literature and science. Upon no nobler object can the public funds be more profitably bestowed, and to no higher end can your most energetic efforts be directed. Economy of time, labor, or expenditure can be exercised in any other direction with less danger to the public weal than in this. I doubt not that you will be fully equal to the emergency, and that by your wise measures we may take the front rank among our sister States in our free school system.

8. *The revision or amendment of the Code of Civil Procedure, to abolish the distinction between actions of law and suits in Chancery.*

Our Code of Civil Procedure is almost identical in its provisions to the code of Ohio, and other Western States. Doing away with much of the cumbrous machinery, accumulated by centuries of precedent, found in the various courts of England, and still partially adhered to in several of the older States, it renders much more simple the administration of justice, and by abolishing many of the tedious details that have proved so harrassing to the litigant both in common law and chancery proceedings, affords doubtlessly, much greater facilities for securing in the most expeditious manner a final adjudication of causes.

But, though adhering very closely to the letter of the Ohio statutes, we find in Section Two, Title One, "Code of Civil Procedure," a material deviation or omission. The Ohio code, under the corresponding title, reads thus: "The distinction between actions at law and suits in equity, and the forms of all such actions and suits heretofore existing, is abolished." In our code the clause "and suits in equity," is omitted.

Therefore, in accordance with the desire of many members of the legal profession in the State, I commend to your consideration the proposed amendment, inserting this clause in the section quoted.

9. *The revision or amendment of the sections of the Revised Statutes, commencing at section five hundred and twenty-one, page four hundred and eighty-four, entitled "Homesteads and other Exemptions."*

The phraseology of the Exemption Law is so obscure that it is liable to mislead, and affords too much ground for misunderstanding as to the amount of property actually exempt from execution and attachment. Section 521 exempts personal property to the amount of \$500 from forced sale or execution, belonging to "heads of families who have neither lands, town lots, or houses subject to exemption or homesteads under the laws of the State." And section 530 enumerates apparently in addition to this \$500 exemption certain classes of personal property that "shall not be liable to attachment,

- “execution or sale on any final process issued from any court
“in this State against any person, being a resident of this
“State or a head of a family.”

But it can hardly be the intention to permit a debtor to avail himself of the provisions of both sections, incongruous as they apparently are. I recommend, therefore, that these sections be so revised or amended as to be rendered consistent and intelligible to the masses.

10. *The amendment of charters of cities, towns, and other corporations.*

11. *The amendment of statutes regulating fees of jurors and witnesses.*

As fixed by the law now on our statute books, the *per diem* of jurors and witnesses is far below the pay of unskilled labor, and consequently it is inflicting a serious burden to compel a man of limited means to attend our courts in either capacity. I recommend, therefore, that the fees be increased to correspond with such increase in the value of labor as may have taken place since the adoption of the present rates.

12. *The amendment of laws regulating roads and the election of Supervisors.*

13. *The amendment of section fifty-one, page fifty-five, Revised Statutes, so that its provisions may apply to the Judges of the First and Second Judicial Districts.*

As this section now stands, the Judge of the Third Judicial District only, is authorized to appoint one special term in any year in the counties within his district.

14. *The revision or amendment of any general or special laws now in force that may be deemed necessary.*

15. *An enactment authorizing counties to vote taxes for internal improvement.*

In order to avoid the necessity of special legislation, it is recommended that a general law be passed, giving to counties the privilege of raising funds by taxation, for the prosecution of public works, such as the construction of bridges, railroads &c., at any time the majority of their electors shall vote in favor of a tax for such purposes. It being the general policy adopted in most States, to encourage such public improvements by permitting either counties or municipal authorities to levy taxes of this kind, by consent of tax-payers, it perhaps simply remains for us to decide, whether a special act

shall be required for each county or city, or the more expeditious method be adopted of providing for all contingencies by a general law.

16. *Appropriations for legislative and other purposes.*

Under this head I deem it proper to call your attention to the subject of the prosecution of the claims of the State against the General Government for expenses incurred in raising and employing a militia force for service against hostile Indians during the year 1864. An appropriation was made by the Territorial Legislature for the prosecution of these claims, which amount in the aggregate to some \$40,000. Of these Governor Saunders succeeded in collecting a part, amounting to \$28,000, leaving a balance of about \$12,000 still due. It is believed that by proper effort on the part of the State authorities the whole amount, or the greater part thereof, will be eventually allowed by the War Department. There are also a few outstanding claims of citizens against the State, for services rendered, and supplies furnished, during the Indian campaign, which should be acted upon without further delay.

Your attention is also called to the condition of the Capitol building. A moderate sum, judiciously expended in its repair, will conduce to the safety of its occupants, and is apparently required by the principles of true economy.

17. *Enactments for the encouragement of immigration.*

The last Territorial Legislature failed to continue by appropriations, the measures adopted by its predecessors for drawing the attention of immigrants to the advantages offered by the agricultural and mineral resources of Nebraska. That judicious but liberal appropriations, guided through proper channels, would bring to our people a ten-fold return in population and capital, must be apparent to any one giving the matter the least attention. Our neighboring States have not neglected their interests in this respect, and have sent their agents in every direction to divert a share of the westward tending stream of emigration from over-populous countries to their own soil. I have been informed by one of our most reliable German citizens, that at the beginning of the present

year, no less than 70,000 souls had engaged their passage to our shores in advance, at the single port of Bremen, in order to lose no time when the season for travel should open. And it is probable that the present year will witness an influx of immigration to the United States rarely, if ever equaled in our past history. Had we no other indications than the large contributions about to be made for the increase of the European armies, the rumors of impending war upon the continent, and the growing symptoms of discontent in Ireland, we could safely predict an increased accession of foreigners, seeking in our midst the immunities of a free government, and homestead ready to yield them a competence with an outlay of labor and capital comparatively trifling.

It behooves us then, that we be not derelict in competition for settlers, but that every means be used to publish abroad our natural advantages of soil, climate, and easy communication with commercial centers. I therefore earnestly commend this subject to your consideration.

18. *The location and disposition of school lands as are or may be hereafter devoted to the State by the General Government for any purpose.*

In an act of Congress, approved on the 19th day of April, 1864, entitled "An Act to enable the people of Nebraska to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States," is found the following provisions:

"SEC. 7. *And be it further enacted*, That sections numbered six and thirty-six, in every township, and when such sections have been or are otherwise disposed of, by any act of Congress, other lands, equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be, be and are hereby granted to said State for the support of common schools."

The school lands have all been located and reserved in accordance with the above provision, except upon the territory lately known as the "Half Breed Reserve," lying between the Great and Little Nemaha rivers in the counties of Richardson and Nemaha. According to precedents, the extinguishment of the title to such tracts of land, has placed them upon the same footing with lands originally forming a part of the public domain, with respect to the right of reservation for school purposes.

I recommend that steps be taken to secure from the General Government an order to the land office, making the reservation in this instance.

By the terms of sections 8, 9 and 10 of the act of Congress aforesaid, the people of the State, upon its admission, became the grantees of a large amount of land, donated for specific purposes, and entrusted to your body for selection, location and disposition. As these grants are conditioned upon the event of their location on or before the 1st day of January next, it becomes your duty to provide for their immediate selection. The following are the sections alluded to :

"SEC. 8. *And be it further enacted*, That provided the State of Nebraska shall be admitted into the Union in accordance with the foregoing provisions of this act, that twenty sections of the unappropriated public lands within said State, be selected and located by direction of the Legislature thereof, on or before the first day of January, Anno Domini eighteen hundred and sixty-eight, shall be and they are hereby granted in legal subdivisions of not less than one hundred and sixty acres, to said State for the purpose of erecting public buildings at the Capital of said State for legislative and judicial purposes, in such manner as the Legislature shall prescribe."

"SEC. 9. *And be it further enacted*, That fifty other entire sections of land as aforesaid shall be, and they are hereby granted to said State, for the purpose of erecting a suitable building for a penitentiary or State prison in the manner aforesaid."

"SEC. 10. *And be it further enacted*, That seventy-two other sections of land shall be set apart and reserved for the use and support of a State University, to be selected in a manner as aforesaid, and to be appointed and applied as the Legislature of said State may prescribe for the purpose named and for no other purpose."

In addition to the foregoing specific grants, the terms of which devolve upon the Legislature the duty of providing for the selection and location of the lands granted, other grants are made, that are also specific in their nature and require the action of the Legislature, to make a proper disposition of the lands, after they shall have been selected and located according to the provisions of the act. The following are the terms of another section of the act aforesaid :

SEC. 11. *And be it further enacted*, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, the said land to be selected by the Governor thereof, within one year after the admission of the State, and when so selected to be used or disposed of on such terms, conditions, and regulations as

the Legislature shall direct, *Provided*, That no salt springs or lands, the right whereof, is now vested in any individual or individuals, or which hereafter shall be confirmed or adjudged to any individual or individuals, shall by this act be granted to said State.

The next section in order of the act aforesaid reads as follows :

"Sec. 12. *And be it further enacted*, That five per centum of the proceeds of the sales of all public lands lying within said State, which have been or shall be sold by the United States prior or subsequent to the admission of said State into the Union, after deducting all expenses incident to the same, shall be paid to the said State for the support of common schools."

In this case it only remains for the Legislature to provide for the reception and distribution of this fund.

The general act of Congress of 1864, donating 500,000 acres of land to each State for the purpose of internal improvement, also demands your attention. Other new States, with the sanction of Congress, have applied this grant to university and educational purposes, and I commend to your consideration the propriety of memorializing Congress for the attainment of a like privilege.

Congress has also, during its late session, passed an act extending to Nebraska the provisions of an act approved July 2d, 1862, donating to each State 30,000 acres for each Senator and Representative of the State in Congress for the purpose of "teaching agriculture and the mechanic arts." This will give 90,000 acres for the endowment, support and maintenance of "at least one college" where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach agriculture and the mechanic arts, in such manner as the Legislature of the State shall prescribe.

19. The location of State Public Buildings and making such provision for the erection and completion of the same as may be deemed necessary.

20. The location of such State Roads as may be deemed necessary.

21. The responsibility of Railroad Companies for damages done to stock by their employees.

It is urged by farmers upon the line of the U. P. R. R. that at present no protection or remedy is afforded them from any injuries that they may suffer from the negligence of railroad employees. It may be proper for the Legislature to

afford them some method of relief, and I therefore commend the subject to your consideration.

22. The regulation of the transit of Texas and other foreign cattle over the State.

It is absolutely necessary for the protection of our stock growers, that some legislation be had to guard against the transmission of contagious and destructive diseases to their cattle. The "Spanish" or "Texas fever" prevails to such an extent among the herds of the southwest, that it is impossible for a single drove to pass through a settlement from that quarter without great jeopardy to the stock of the locality. Our neighboring States have prohibited such transit through the settled counties within their borders, and it will be wise for us to follow their example in this particular.

23. The regulation of the payment of salaries to the State and Judicial officers.

24. Proposed amendments to the Constitution of the United States that may be submitted for ratification.

I shall take pleasure in transmitting to you, at an early date, an attested copy of a concurrent resolution of the Senate and House of Representatives in Congress assembled, proposing to the Legislature of the several States an amendment to the Constitution of the United States received at the Department of State June 16th, 1866.

This proposed amendment, which if ratified will constitute the fourteenth article of the Constitution, embodies in a few short, but comprehensive sentences the essence of the lesson taught the American people during the terrible agony of civil war. In extending the right of citizenship to "all persons born or naturalized in the United States, and subject to the jurisdiction thereof," and prohibiting the denial of the equal protection of the laws to any such person, it accepts fully, and forever vindicates by the solemn pledge of a nation the idea that was the corner stone of American Independence, but has been for a time rejected by the builders of the national superstructure.

In providing that when the elective franchise is denied to any of the male inhabitants of a State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime,

the basis of representation shall be proportionately reduced, it simply enunciates a proposition that would present itself as an axiom to a mind unprejudiced by long participation in the fruits of injustice.

In providing that no person shall hold office under the United States or under any State, who having previously taken an official oath whereby he was sworn to support the Constitution of the United States, shall, in violation of that oath, "have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies, thereof," it but recognizes the common law definition of the nature and obligation of an oath, and the qualifications incurred by the crime of perjury.

By a solemn declaration of the validity of the public debt of the United States, it guarantees the preservation of the national honor, and by prohibiting the assumption or payment of any debt or obligation incurred in aid of insurrection or rebellion against the United States, it merely puts the seal of condemnation upon national suicide.

Regarding the proposed amendment simply in the light of an exposition of the convictions of a Congress that represents the loyal people whose unfaltering faith in the great principles of freedom and national integrity brought to a successful termination the great struggle for the Union, it is worthy of our most respectful consideration, and I doubt not that the representatives of a constituency that stood firmly on the side of the Government during the trying contest, will show by their action upon this question, that they are not prepared to surrender the principles for which they fought, the moment the battle has been decided, and the victory won.

23. The education and care of deaf mutes.

The condition of this unfortunate class of our children, commends them to the special care of the Legislature. Often the poverty of the parent utterly prohibits them from the advantages of schools adapted to their needs, and condemns them, except the State becomes their guardian, to a life of the darkest ignorance, without hope of usefulness or profit to themselves or others. It is fortunate that modern philanthropy has devised a method by which the mind of the deaf and dumb child can be developed, whereby society can receive

as an intelligent and capable citizen, one who would otherwise remain a burden upon public or private charity. I recommend that a sufficient appropriation be made for the foundation and support of a school for these children, provision being made for the gratuitous instruction of such as are of indigent parentage.

28. *The creation of the offices of School Commissioner, Adjutant General, and Librarian of State, and such other offices as may be deemed necessary, fixing their salaries, and defining their duties.*

At present the law imposes the duties of School Commissioner upon the State Auditor. While we were in a territorial condition, this arrangement was perhaps wise, but now that we are a State, possessed of ample means for the expansion of our system of common schools, to meet the urgent needs of our people, thereby entailing the increase of labor and responsibility that must attach to that important office, it is evident that the Auditor, unprovided as he is with clerical aid, will find the task entirely too burdensome.

Whatever be the character of the school system adopted by you at this session, it will undoubtedly require the full time and attention of the officer whose duty it becomes to superintend its organization and execution.

The law providing for the office of Adjutant General, defining its duties and fixing its salary, having been omitted in the revision is no longer in force. I deem it important that such an officer should be appointed, who should take supervision of the arms and war material of the State, should assist the Executive in the organization and control of the volunteer or enrolled militia, should supervise any military force from the State in the service of the United States, should keep the State military records and make annual returns to the Governor of the condition of the volunteer and enrolled militia of the State, and of the military force in actual service, and perform such other duties as may be assigned him by the Legislature, or the Executive.

The law providing for a Librarian is still in force, but at the election of State officers under the provisions of the schedule of the Constitution, no such officer was chosen, and consequently some legislation is necessary, to place the library in the custody of a State official. I recommend that the office

of Librarian be created and provided for, or that the Secretary of State be made Librarian *ex-officio*, with a sufficient remuneration to secure the proper attention to the interests of the Library.

27. Appropriations for pay of Deputy Auditor, and clerks for State officers.

No provisions having been made for clerical aid in the Executive Department, I commend to your consideration the urgent need of such appropriations, for salary of Private Secretary of Governor, clerk for Secretary of State, and Deputy Auditor.

28. Making provision for the redemption of State or Territorial bonds.

Our finances being in a prosperous condition, it is eminently proper that measures should be taken for the rapid liquidation of our liabilities.

29. Providing for the copying of the records of Washington county, so far as they affect the title to property in Logan Creek precinct, and placing such copies on the records of Dodge county.

This action is rendered necessary by the transfer of Logan Creek precinct from Washington to Dodge county, by an act of the late Territorial Legislature.

30. Enactment for carrying out the provisions of the State Constitution, as follows:

1. To define the boundaries of Senatorial and Representative Districts, of convenient contiguous territory, as compact as may be. (Title Legislative, Art. 2, Sec. 5.)

2. To prescribe the mode of organizing the House of Representatives, at the commencement of each regular session. (Art. 2, Sec. 9.)

3. To provide for the letting of contracts for the supply of stationery for the use of the State, and for doing the public printing. (Art. 2, Sec. 23.)

4. To provide for the organization of the militia. (Art. 2, Sec. 26.)

5. To prescribe the manner in which civil officers shall be tried for misdemeanors in office. (Art. 2, Sec. 29.)

6. To declare the cases in which offices shall be deemed vacant, and the manner of filling the vacancies. (Art. 2, Sec. 31.)

7. To prescribe the manner of applying for pardon of convicts. (Title Executive, Sec. 12.)

8. To provide a seal for the State. (Title Executive, Sec. 13.)

9. To define the duties of Secretary, Auditor and Treasurer of State. (Title Executive, Sec. 2.)

10. To prescribe the time and manner of electing Supreme Judges. (Title Judiciary, Sec. 1.)

11. To divide the State into Judicial Districts, to prescribe times and places for holding District Courts, and to assign Justices to hold District Courts in the several districts. (Title Judiciary, Sec. 2.)

This section contains a proviso, relating to the assignment of Justices, as follows: "That until the Legislature shall have provided by law, the Governor shall have authority to make such assignment." Deeming that the public good required the exercise of the Executive authority thereby conferred, in an order issued on the 27th of March last, I made the following temporary assignment of Justices, to-wit: Chief Justice Wm. A. Little, to the Second Judicial District; Associate Justice George B. Lake, to the First Judicial District; and Associate Justice L. Crounse to the Third Judicial District.

12. To define the jurisdiction of the several courts, and to establish such inferior courts as may be deemed necessary. (Title Judiciary, Sec. 4.)

A question has arisen as to the jurisdiction of our State Courts over actions commenced in the Territorial courts, previous to our admission. And it has been, thus far, decided that the records of the Territorial District Courts, are not legally in the possession of the Clerks of the State District Courts, that the first section of the Schedule of the Constitution which declares "that all rights, suits, actions, prosecutions, judgments, recognizances, claims and contracts, both as respects persons and bodies corporate, shall continue and be enforced as if no change had taken place, &c.," "that no inconvenience may arise from a change of Territorial government to a State government," suffices to keep alive these actions, but not to effect their transfer into the State Courts, and that legislation is necessary to complete such transfer.

I recommend, therefore, that as early in the session as practicable, such legislation shall be had as shall cure this defect in the schedule, and give to the courts of the State, full jurisdiction in the premises.

13. To provide for the payment of fees to the Clerks of District and Supreme Courts, by the party commencing or entering any suit in said courts, and to designate the officers to whom said Clerks shall pay such fees. (Title Judiciary, Sec. 7.)

14. To provide for an annual tax sufficient to defray the necessary current expenses. (Title Finance, Sec. 3.)

15. To make provision for the disposition and protection of School Lands. (Title Education, Sec. 1.)

16. To provide for the organization of cities and incorporated villages. (Title Corporations, Sec. 4.)

31. Such other enactments as may be deemed necessary to carry out the provisions of the Constitution.

GENTLEMEN :—I cannot conclude without expressing a hope that in all your deliberations, the spirit of harmony and mutual forbearance, so necessary to the preservation of the dignity of a legislative body, may be carefully preserved—that every measure brought up for your consideration may meet with unprejudiced and unimpassioned examination—that our new State, through your wisdom and prudence, may inscribe upon the opening pages of its history, a record unsullied by the petty, yet bitter warfare of local interests, and that every member of your body may bear in perpetual remembrance that he owes not merely a duty to the particular section that he represents, but that Nebraska as an integral State, now calls upon him for the unselfish service of his head and heart.

Rendering in all sincerity our humble acknowledgments to the Giver of all Good, for our preservation and protection as a people, since the date of our organization as a Territory—uniting with our sister States in gratitude to Him for His guidance of the American Republic, through the tempest of Treason and armed Rebellion, to the haven of peace and renewed prosperity, let us solemnly join in an invocation to the same Almighty Power, for the continuance of His fostering care—that our soil may ever yield its bounteous harvests to the intelligent toil of the husbandman, and that the peaceful conquests of commerce and mechanical skill, may be as enduring as the truth of the great principle of universal freedom, which forever assures them of victories.

DAVID BUTLER

TREASURER'S STATEMENT.

OFFICE OF THE STATE TREASURER, }
OMAHA, May 21, 1867. }

To the Honorable, the House of Representatives of the State of Nebraska:

GENTLEMEN: In obedience to a resolution passed by your body requesting "a succinct statement of the financial condition of the State upon the first day of May, 1867," I have the honor to submit the following report:

GENERAL FUND.

On hand December 1st, 1866	\$9,113 84
Receipts to April 30th, inclusive	1,632 26
	\$10,746 10
Warrants, &c., paid	10,833 78
Overdrawn on General Fund	\$87 68

SINKING FUND.

On hand December 1st, 1866	\$14,210 72
Receipts to April 30th, inclusive	856 38
Discount on bonds cancelled	117 00
	\$15,184 10
Coupons and interest paid	\$2,588 37
Bonds redeemed	7,650 00
On hand, Sinking Fund	\$4,945 73

MISCELLANEOUS RECEIPTS.

From unknown party, supposed to be "conscience money"	\$ 75 00
From late Gov. A. Saunders, on account of reimbursement by Congress for militia expenses	\$27,000 00

RECAPITULATION.

Sinking Fund on hand	\$ 4,945 73
Conscience " "	75 00
Militia reimbursement	27,000 00
	\$32,020 73
Less over-paid on General Fund	87 68
Total in Treasury	\$31,933 05

Very Respectfully,

A. KOUNTZE,
Treasurer of Nebraska.